

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CALLAWAY GOLF COMPANY,

Plaintiff,

v.

C. A. No. 06-91 (SLR)

ACUSHNET COMPANY,

Defendant.

**CALLAWAY GOLF'S OPPOSITION
TO ACUSHNET'S MOTION TO AMEND THE JUDGMENT
PURSUANT TO FED. R. CIV. P. 59(e)**

The parties agree that this case concerns all 9 claims identified in Acushnet's motion; the parties disagree on what decision should be rendered regarding those claims. As set forth in Callaway Golf's memorandum in support of its motion for post-trial relief (D.I. 619), Acushnet capitalized on a number of erroneous evidentiary rulings in order to skew the results of the most recent jury trial in its favor. Because the findings on anticipation and obviousness were against the great weight of the evidence, and because of the prejudicial impact of the evidentiary errors, Callaway Golf respectfully believes that a new trial is warranted. Indeed, the anticipation and obviousness decisions are so erroneous that judgment as a matter of law would also be appropriate. Callaway Golf respectfully believes that no additional invalidity judgment should be entered, and that the existing judgment should be either vacated or reversed. Nevertheless, Callaway Golf agrees with Acushnet that, whatever ultimate decision the Court may enter, it should be entered on all 9 claims identified in Acushnet's motion, namely: claims 1, 4 and 5 of

the '293 patent, claims 1-3 of the '156 patent, claim 5 of the '130 patent, and claims 1 and 3 of the '873 patent.

Dated: June 1, 2010

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CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2010, I electronically filed with the Clerk of Court CALLAWAY GOLF'S *OPPOSITION* TO ACUSHNET'S MOTION TO AMEND THE JUDGMENT PURSUANT TO FED. R. CIV. P. 59(e) using CM/ECF which will send electronic notification of such filing(s) to the following Delaware counsel. In addition, the filing will also be sent via hand delivery to local counsel:

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